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38724
OSI PHARMACEUTICALS, INC
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In re Application of
FYFE *et al*
Application No.: 10/584,025
PCT No.: PCT/GB2004/050046
Int. Filing Date: 23 December 2004
Priority Date: 24 December 2003
Attorney Docket No.: NC-10009/US
For: HETEROCYCLIC DERIVATIVES AS
GPCR RECEPTOR AGONISTS

DECISION

This decision is in response to the papers filed 24 September 2008 which are treated as a petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 11 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 26 August 2008, applicants filed an executed declaration and surcharge fee. The name of an inventor was listed as Lisa Sarah BERTRAM (GARDNER) on the declaration. However, the name of the inventor was recorded as Lisa GARDNER on the international publication.

On 27 August 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration filed 26 August 2008 was not in compliance with 37 CFR 1.497(a) and (b).

On 24 September 2008, applicants filed the subject response.

DISCUSSION

Applicants' response filed 24 September 2008 is treated as a petition to change the name of the inventor. Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The \$400.00 petition fee has been charged to Deposit Account No. 50-2783 as authorized. However, applicants failed to provide a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or provide a copy of the court order changing the name of the inventor.

As such, the petition to change the name of the inventor cannot be granted at this time.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The declaration filed 26 August 2008 is still not in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.



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